

March 6, 2008

Paul & Pamela Duckett
95 Lawrence Court
Tiverton, Rhode Island 02878

Re: Tiverton Zoning Board Relief; Map 1-8, Block/Plat 170, Card/Lot 15

Dear Mr & Ms. Duckett:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on March 5, 2008 for a request for a variance from Article V, Section 1 and for a special use permit pursuant to Article VI, Section 7.a.(1) and Article VII, Section 4.b. of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to demolish and existing residential structure and to erect a new residential structure with a new septic system located within 125 feet of Nanquaket Pond on property located at 25 Delano Island, Tiverton, Rhode Island, at Map 1-8, Block/Plat 170, Card/Lot 15 (the "Premises") with less than required front yard setback from the property line than is allowed in an R80 district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and all of the testimony and evidence entered into the record at the public hearing, makes the following findings:

1. That the Premises contains approximately 4,792 square feet of land area, more or less, and is zoned R80 residential.
2. A residential dwelling is located on the Premises but is in such a condition as to require its demolition and replacement with a new one bedroom residential structure.
3. The petitioner testified that he wished to demolish the existing trailer-like residential structure and replace it with a new one-bedroom residential structure that is located closer to the front property line than is permitted in an R-80 district and abandon an existing cesspool and replace it with an advanced septic treatment system which has been approved by the RI Department of Environmental Management. Due to the size and shape of the Premises, the new septic system is located some 50 feet away from Nanquaket Pond, which is less than the required 125 feet required in the Zoning Ordinance. The proposal requires a variance from Article V, Section 1 and for a special use permit pursuant to Article VI, Section 7.a.(1) and Article VII, Section 4.b. of the Zoning Ordinance.
4. The petitioner testified that the proposal would meet current neighborhood development conditions and would constitute a substantial improvement to the existing condition of the Premises and improve environmental conditions by abandoning the old cesspool and replacing it with an advanced septic treatment system.
5. The petitioner also testified that the proposal would be in keeping with the development in the surrounding area, would not negatively impact any nearby property owners and was the least relief necessary.
6. No objections were raised to the proposal.
7. The Board concurred with the factual statements and opinions of the petitioner, whose information, analysis and conclusions were found credible and are made a part of the record. No objections were presented by any abutters.

Based on the foregoing and after deliberations on the application, the Board voted unanimously to grant the application for the necessary variances, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioners.
- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioners.
- c. The unnecessary hardship, which the petitioners seek to avoid, has not been imposed by any prior action of the petitioners and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

As to the special use permit, after deliberations the Board voted unanimously to approve the petitioner's application for a special use permit, as follows:

- (1) The public convenience and welfare will be served by allowing the establishment of the use on the Premises.
- (2) The proposed use will not be detrimental to the public health, safety, morals or welfare.
- (3) The proposed use will be compatible with neighboring uses and will not adversely affect the general character of the area.
- (4) The proposed use will not create a nuisance in the neighborhood, and will not hinder or endanger vehicular or pedestrian movement.
- (5) The requested use is compatible with the comprehensive community plan of the Town of Tiverton.

This petition is granted by the Board with the following stipulations and conditions:

1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
2. That the relief is limited to the plans and representations made by the petitioners to the Board. Changes to the approved plan may be made without approval of the Zoning Board of Review if needed to comply with either the building or fire codes.
3. That this grant shall be activated with a building permit/certificate of occupancy, within one (1) year, unless extended by the Board, or it shall become void.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review